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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/540,735	02/28/2006	Yehuda Turgeman	06727/0203074-US0	9109
7278	7590	01/28/2009	EXAMINER	
DARBY & DARBY P.C. P.O. BOX 770 Church Street Station New York, NY 10008-0770			LAFORGIA, CHRISTIAN A	
ART UNIT	PAPER NUMBER			
		2439		
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01/28/2009	PAPER			

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/540,735	TURGEMAN ET AL.
	<b>Examiner</b>	Art Unit
	Christian LaForgia	2439

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 11 November 2008.  
 2a) This action is FINAL.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 192 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 192 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 24 June 2005 is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/1648)  
     Paper No(s)/Mail Date 12/31/08      4) Interview Summary (PTO-413)  
     Paper No(s)/Mail Date \_\_\_\_\_  
 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

### **DETAILED ACTION**

1. The amendment of 11 November 2008 has been noted and made of record.
2. Claim 192 has been presented for examination.
3. Claims 1-191, 193, and 194 have been cancelled as per Applicant's amendment.

#### *Response to Arguments*

4. Applicant's arguments with respect to claim 192 have been considered but are moot in view of the new grounds of rejection set forth below.

#### *Information Disclosure Statement*

5. The information disclosure statement (IDS) submitted on 31 December 2008 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the Examiner has considered information disclosure statement.

#### *Claim Rejections - 35 USC § 103*

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
7. Claim 192 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication No. 2002/0199095 to Bandini et al., hereinafter Bandini, in view of U.S. Patent Application Publication No. 6,757,830 B1 to Tarbutton et al., hereinafter Tarbutton, and in further view of U.S. Patent Application No. 2002/0184315 A1 to Earnest, hereinafter Earnest.
8. As per claim 192, Bandini teaches a method for combating spam comprising:  
categorizing incoming messages received at said at least one gateway into first, second and third categories (Figure 2 [blocks 54, 56], paragraphs 0021, 0026, 0039, i.e. compare the received e-mail to the SPAM database and classify as SPAM, clean or borderline);

providing spam classifications for incoming messages in at least said first and second categories (Figure 2 [blocks 54, 56], paragraphs 0021, 0026, 0039, i.e. classifying the message as either SPAM or clean);

not immediately providing a spam classification for incoming messages in said third category (Figure 2 [blocks 54, 56], paragraphs 0021, 0026, 0039, i.e. classifying the message as borderline);

handling said messages based on said spam classifications (Figure 2 [blocks 58,59, 60], paragraph 0021).

9. Bandini does not teach delaying said incoming messages in said third category for a period of time and thereafter re-classifying said messages.

10. Trabotton discloses delaying received email messages for a predetermined amount of time so that a decision can be made with the most up-to-date anti-virus and anti-spamming signatures (Abstract, column 2, lines 1-34).

11. It would have been obvious to one having ordinary skill in the art at the time the invention was made to delay said incoming messages in said third category for a period of time and thereafter re-classifying said messages based on classifications of incoming messages received during said period, since Trabotton states at column 2, lines 24-30 that delaying the messages increases the likelihood that the tests for unwanted properties are current at the expiry of the delay period and will include counter-measures that were distributed during the delay period, thereby identifying problem e-mails before reaching the user.

12. Bandini and Tarbotton do not disclose wherein the reclassification is based on classification of incoming emails received during the time period.

13. Earnest discloses re-evaluating messages in a directory based on a number of messages received from a sending address within a specific interval (paragraphs 0043, 0045, 0046, claim 16).

14. It would have been obvious to one of ordinary skill in the art for the reclassification to be based on classification of incoming emails received during the time period, since Earnest states at paragraph 0012 that it would help in automatically detecting unwanted messages.

***Conclusion***

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

16. The following patents are cited to further show the state of the art with respect to spam detection, such as:

United States Patent No. 7,287,060 B1 to McCown et al., which is cited to show holding messages in a conditional storage area, and re-evaluating the messages after a predetermined period has expired (column 1, line 65 to column 2, line 8).

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christian LaForgia whose telephone number is (571)272-3792. The examiner can normally be reached on Monday thru Thursday 7-5.

18. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Zand can be reached on (571) 272-3811. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

19. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christian LaForgia/  
Primary Examiner, Art Unit 2439

clf